

Message Text

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PAGE 01 GENEVA 01444 01 OF 02 271454Z

47

ACTION IO-11

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SUBJECT: HUMAN RIGHTS COMMISSION (HRC) - US STATEMENT ON NONALIGNED
DRAFT RESOLUTION INCLUDING REFERENCE TO RIGHT TO LIFE AND
HELSINKI DECLARATION

1. TEXT FOLLOWS OF US REP GARMENT STATEMENT ON ABOVE
SUBJECT DELIVERED FEB 27.

2. TEXT FOLLOWS: BEGIN TEXT.

STATEMENT ON NONALIGNED DRAFT RESOLUTION
INCLUDING REFERENCE TO RIGHT TO LIFE AND HELSINKI DECLARATION

BY

LEONARD GARMENT
UNITED STATES REPRESENTATIVE
HUMAN RIGHTS COMMISSION

FEBRUARY 27, 1976

MR. CHAIRMAN,

I ADDRESS MYSELF TO THE NEW DRAFT RESOLUTION INTRODUCED BY
THE DISTINGUISHED REPRESENTATIVE OF SENEGAL UNDER ITEM 7. IT IS
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PAGE 02 GENEVA 01444 01 OF 02 271454Z

A DRAFT THAT APPEARS REASONABLE ON FIRST READING. TAKING INTO

ACCOUNT THE DIFFERENCES OF OPINION THAT HAVE BEEN EXPRESSED THESE LAST SEVERAL DAYS, IT IS OBVIOUSLY PUT FORWARD AS A COMPROMISE TEXT.

BUT WHAT IS BEING COMPROMISED? THE BEGINNINGS OF THIS COMPROMISE APPEARED TWO YEARS AGO WHEN THE DELEGATION OF THE SOVIET UNION SUGGESTED THAT THIS COMMISSION ADOPT A RESOLUTION ENSHRINING THE RIGHT TO LIFE AS THE HUMAN RIGHT ABOVE ALL OTHERS. AND TWO YEARS AGO THIS COMMISSION, OR AT LEAST A MAJORITY OF ITS MEMBERS, WERE NOT ABLE TO ACCEPT SUCH A POSITION. IN FACT A MAJORITY OF THE MEMBERS STOOD THEIR GROUND AND TOOK THE POSITION THAT THE HUMAN RIGHTS RECOGNIZED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE TWO COVENANTS FORM A CIRCLE FROM WHICH ONE PART, ONE SEGMENT CANNOT BE SELECED AS PRIMARY, WITHOUT HAVING THE ENTIRE CIRCLE COLLAPSE, AND WITH IT THE FRAGILE STRUCTURE OF INTERNATIONAL HUMAN RIGHTS.

SO LAST YEAR THE SOVIET DELEGATION CAME BACK. IT CAME BACK WITH THE SAME RESOLUTION, WITH A FEW WORDS OR PHRASES CAST IN A SLIGHTLY DIFFERENT TONE. BUT THE RESOLUTION WAS THE SAME, AND THE ISSUES WERE THE SAME, AND THIS COMMISSION, OR THE MAJORITY OF ITS MEMBERS SAW THE SAMENESS OF IT ALL AND SO DISPOSITION OF THE SOVIET RIGHT TO LIFE RESOLUTION WAS PUT OFF AGAIN. AND IT WAS PUT OFF FOR PRECISELY THE SAME REASON: A MAJORITY OF THE MEMBERS OF THIS COMMISSION UNDERSTOOD THAT TO TAKE THE POSITION THAT THE RIGHT TO LIFE, TO EXISTENCE ON ANY TERMS, IS A PREREQUISITE TO ANY OTHER HUMAN RIGHT AND THEREFORE IS THE ONE HUMAN RIGHT OF TRANSCENDENT IMPORTANCE FOR THE WORK OF THIS COMMISSION WOULD BE TO UNDERMINE THE STRUCTURE OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS AND THE CONVENANTS. THEY WOULD IN FACT BE ABANDONING THE WORK OF THIRTY YEARS BY ADOPTING A NEW CHARTER ON HUMAN RIGHTS THAT GAVE EXPLICIT RECOGNITION TO ONLY ONE RIGHT.

SO THIS YEAR THE SOVIET DELEGATION CAME BACK AGAIN WITH THE SAME PROPOSITION, AGAIN WITH A FEW WORDS OF MARGINAL SIGNIFICANCE CHANGED FOR OTHER WORDS OF EVEN LESS MEANING. BUT THE PROPOSAL WAS PRECISELY THE SAME: TO ENSHRINE THE RIGHT TO LIFE AS THE ONE HUMAN RIGHT ABOVE ALL OTHERS.

NOW THERE IS A DIFFERENCE THIS YEAR, AND WE ALL KNOW WHAT THE DIFFERENCE IS. THIS YEAR A MAJORITY OF THE MEMBERS OF THIS COMMISSION WANT A COMPROMISE ON THESE ISSUES, ONE THAT UNCLASSIFIED

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PAGE 03 GENEVA 01444 01 OF 02 271454Z

WOULD SATISFY THE SOVIET DELEGATION. IN THE WORDS OF ONE OF THE MAJOR ARCHITECTS OF THIS COMPROMISE, THE SUBJECT OF A RESOLUTION ON THE RIGHT TO LIFE HAS BEEN WITH US FOR SEVERAL YEARS NOW, AND SHOULD BE GOTTEN RID OF BY SOME KIND OF COMPROMISE RESOLUTION. GOTTEN RID OF. THAT RAISES THE QUESTION SQUARELY: IS THE RESOLUTION BEFORE US ONE THAT IN FACT GETS RID OF THE SOVIET PROPOSITION THAT A MAJORITY OF THIS COMMISSION REFUSED TO ACCEPT IN TWO PRIOR SESSIONS?

IT MOST CERTAINLY DOES NOT. THIS IS A COMPROMISE THAT
IN FACE ACCEPTS THE PROPOSITION THAT WAS PREVIOUSLY REJECTED.
HOW, WE OUGHT TO ASK OURSELVES, IS THAT A COMPROMISE? IT IS
A COMPROMISE ONLY IN THE SENSE THAT THERE HAS BEEN ADDED TO
THE OBJECTIONABLE PROPOSITION OTHER LANGUAGE, IN AN ATTEMPT TO
ACHIEVE AN APPEARANCE OF BALANCE; THE EFFORT IS TO MAKE THE
AMALGAMATION OF IDEAS AND LANGUAGE PALATABLE BY OFFERING SOME-
THING TO EVERYONE. EVEN IF WHAT A MAJORITY OF THIS COMMIS-
SION REFUSED TO ACCEPT IN 1974 AND IN 1975 REMAINS CENTRAL TO
THE MIXTURE.

IN SHORT, THIS SO-CALLED "COMPROMISE" IS A SURRENDER.
SURELY A WELL INTENTIONED ONE, BUT A SURRENDER NEVERTHELESS.
FOR THE KIND OF IDEAS WE MUST DEAL WITH ON SOME OF THE SUB-
JECTS BEFORE US ARE NOT SUBJECT TO COMPROMISE.

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PAGE 01 GENEVA 01444 02 OF 02 271427Z

47

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UNCLAS SECTION 2 OF 2 GENEVA 1444

ONE SMALL BUT FUNDAMENTAL EXAMPLE, SHOWS THE FUTILITY
OF TRYING TO COMPROMISE ISSUES LIKE THOSE BEFORE US. SOME
DELS IN THIS ROOM, OF WHICH MY OWN IS ONE, BELIEVE THAT
HUMAN RIGHTS ARE SELF-EVIDENT AND INALIENABLE, AND ARE THE
PROPERTY OF THE HUMAN PERSONALITY INDEPENDENTLY OF WHATEVER
RECOGNITION IS GIVEN THEM BY THE STATE. OTHER DELS
HERE MAINTAIN THAT HUMAN RIGHTS DEPEND ON THE STATE, THAT
THEY HAVE NO EXISTENCE SEPARATE FROM ORGANIZED SOCIETY.

NOW THERE IS SIMPLY NO WAY TO COMPROMISE THESE TWO
IDEAS. THEY START IN DIFFERENT PLACES AND GO IN DIFFERENT

DIRECTIONS. BUT THEY OCCUPY THE SAME SPACE. THEIR BEGINNINGS AND ENDINGS ARE DIFFERENT, EVEN OPPOSED ONE TO ANOTHER. EITHER CAN BE ACCEPTED AS THE CONCEPTUAL BASIS FOR INTERNATIONAL ACTION TO SAFEGUARD HUMAN RIGHTS. BOTH CANNOT. SO A COMPROMISE BETWEEN THESE TWO IDEAS IS CONCEPTUALLY IMPOSSIBLE. LET US NOT DECEIVE OURSELVES ON THAT SCORE. FOR RATHER THAN SEEKING WHAT WE CAN AGREE ON, RATHER THAN BUILDING OUR COMPROMISES ON THE FRAGILE AND DELICATELY WROUGHT BALANCE OF IDEAS OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, RATHER THAN JOINING IN TAKING CONCRETE ACTION IN CASES OF UTMOST URGENCY, FALSE COMPROMISES LIKE THIS THREATEN OUR ABILITY TO WORK TOGETHER AT ALL IN THE FIELD OF HUMAN RIGHTS.

TO APPEASE THE SOVIET DEL., TO GET RID OF THIS
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PAGE 02 GENEVA 01444 02 OF 02 271427Z

ITEM, WE ARE ASKED TO ACCEPT THE SOVIET PROPOSITION THAT HUMAN RIGHTS FOLLOW INTERNATIONAL PEACE AND SECURITY. LET US BE QUITE CLEAR: THE US WILL NOT ACCEPT THIS PROPOSITION NO MATTER HOW MANY ATTRACTIVE AND OTHERWISE ACCEPTABLE IDEAS ARE INCLUDED WITH IT. WE WILL NOT ACQUIESCE IN PERMANENTLY UNDERMINING THE BALANCE OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS MERELY TO DISPOSE OF A TROUBLESOME ITEM ON TODAY'S AGENDA. THIS IS THE FUNDAMENTAL US OBJECTION TO THE RES. IT OVERSHADOWS ANOTHER OBJECTION WHICH BY ITSELF IS ENOUGH TO JUSTIFY REJECTION OF THE RES WHICH IS THAT ACQUIESCENCE IN THIS RES REDUCED SUBSTANTIALLY THE LEVEL OF THE HUMAN RIGHTS AGREEMENT ACHIEVED IN THE FINAL ACT AT HELSINKI. THOSE GOVERNMENTS THAT INTEND TO UPHOLD THE LABORIOUSLY-ACHIEVED BALANCE OF THAT DECLARATION SHOULD VOTE AGAINST THE NON-ALIGNED DRAFT AS WELL AS SOVIET DRAFT IF IT IS ALSO PUT TO A VOTE.

IF THIS COMMISSION CARES ABOUT LIFE, AND THE RIGHT TO LIFE, AS THIS RES WOULD HAVE ONE BELIEVE, WE OUGHT TO BE DISCUSSING WHAT ACTION TO TAKE IN THOSE CASES WHERE WE MIGHT BE ABLE TO SAVE LIVES, OR IMPROVE LIVES. AND THIS IS PRECISELY WHAT THIS COMMISSION IS NOT DOING, HAS NEVER DONE, AND SHOWS NO INCLINATION OR CAPACITY TO DO, WITH THE EXCEPTION OF THE COMPULSIVE ATTENTION IT GIVES TO THE ACTIVITIES OF THREE GOVERNMENTS.

VOICES FROM ALL CONTINENTS ARE PLEADING WITH THIS COMMISSION TO STOP WASTING ITSELF ON POLITICAL RESOLUTIONS AND COUNTERFEIT COMPROMISES. VOICES OF ANGUISHED MEN AND WOMEN, PUT TO THE TEST OF HUMAN ENDURANCE AT THE TORTURER'S HAND, CALL ON US TO PUT ASIDE ACTIONS THAT BENEFIT NO ONE. IF COMPROMISES MUST BE REACHED, LET US REACH THEM ON HOW TO PROTECT THE LIVES AND WELLBEING OF INDIVIDUALS VICTIMIZED BY GOVERNMENTS.

I COULD NOT HOPE TO IMPROVE ON YESTERDAY'S THOUGHTFUL STATEMENT

ON THIS SUBJECT BY ONE REP OF AMNESTY INTERNATIONAL
AS HE NOTED, THIS COMMISSION WILL SOON BE CONSIDERING CASES ARISING
UNDER THE 1503 PROCEDURE. WE WILL THEN HAVE AN OPPORTUNITY TO SEE
WHETHER THE COMMISSION IS WILLING TO MOVE FROM ITS CUSTOMARY
AND VIGOROUS DEFENSE OF STATE IDEOLOGY TO VIGOROUS STEPS IN BEHALF
OF INDIVIDUALS WHO ARE THE VICTIMS OF GROSS AND SYSTEMATIC
COMPROMISES UNDER THAT ITEM WILL, IN CONTRAST TO THE PRESENT ITEM,
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PAGE 03 GENEVA 01444 02 OF 02 271427Z

PRODUCE NO ACTION.

WE SHALL SEE.

END TEXT. DALE

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